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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,839	07/23/2001	David B. Kay	1546.007US1	3919

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EXAMINER	
GRAHAM, CLEMENT B	
ART UNIT	PAPER NUMBER
3692	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/911,839	KAY ET AL.	
	Examiner	Art Unit	
	Clement B. Graham	3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 October 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-16, remained pending in this application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-2, 6, 8-9, 13-14, 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Beattie et al (Hereinafter Beattie U. S. Patent No 5,659, 742) in view of Lim U. S. Patent No 6, 526, 521.

As per claims 1, Beattie discloses a computer assisted method for detecting content holes, comprising:

accessing a content a content body (see column 24 lines 29-54 and fig: 7a-b), organized into a plurality of concept nodes ("i. e, "terms in a query" see column 23 lines 38-65 and column 14 lines 29-65") wherein the content body includes a first concept node ("i. e, "first term in a query" see column 23 lines 38-65 and column 14 lines 29-65 and column 23 lines 9-67") and determining successful service interactions as a function of concept node, successful service interactions at the first concept node (see column 6 lines 55-65) and selectively pre tagged before receiving a user query as part of a service interaction.(see column 24 lines28-54).

Beattie fails to explicitly teach percentage and below a predefined threshold, flagging a content hole.

However Lim discloses a method for providing access to data storage pathways that connect a cluster of nodes to a data storage system, the method comprising the steps of: receiving, from a cluster framework operating on the cluster of nodes, instructions for controlling multiple sets of the data storage pathways that connect the cluster of nodes to the data storage system; determining, in response to the instructions, which of the multiple sets of data storage pathways are available for transferring data between the cluster of nodes and the data storage system in accordance with predetermined access

conditions; providing, to the cluster framework, operation states identifying which of the multiple sets of storage pathways are available for transferring data between the cluster of nodes and the data storage system in accordance with the predetermined access conditions, the cluster of nodes accessing the data storage pathways based on the operation states; and issuing a warning signal to the cluster framework when a percentage of a particular set of data storage pathways available for transferring data between a particular node and the data storage system decreases from a value that is greater than or equal to a pre-established warning threshold to a value that is lower than the pre-established warning threshold. (see column 11 lines 30-43 and column 22 lines 21-46).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made that the teachings of Beattie to include percentage and below a predefined threshold, flagging a content hole taught by Lim in order to determine relevance scores.

As per claims 2, Beattie discloses a computer readable medium having instructions that when executed in a computer detects content holes by:
accessing a content body organized into a plurality of concept nodes. ("i. e, "terms in a query" see column 23 lines 38-65 and column 14 lines 29-65") wherein the content body includes a first concept node ("i. e, "first term in a query" see column 23 lines 38-65 and column 14 lines 29-65 and column 23 lines 9-67") and determining successful service interactions as a function of concept node, successful service interactions at the first concept nodes(see column 6 lines 55-65) and selectively pre tagged before receiving a user query as part of a service interaction.(see column 24 lines28-54).
Beattie fails to explicitly teach explicitly teach percentage and below a predefined threshold, flagging a content hole.

However Lim discloses a method for providing access to data storage pathways that connect a cluster of nodes to a data storage system, the method comprising the steps of: receiving, from a cluster framework operating on the cluster of nodes, instructions for controlling multiple sets of the data storage pathways that connect the cluster of nodes to the data storage system; determining, in response to the

instructions, which of the multiple sets of data storage pathways are available for transferring data between the cluster of nodes and the data storage system in accordance with predetermined access conditions; providing, to the cluster framework, operation states identifying which of the multiple sets of storage pathways are available for transferring data between the cluster of nodes and the data storage system in accordance with the predetermined access conditions, the cluster of nodes accessing the data storage pathways based on the operation states; and issuing a warning signal to the cluster framework when a percentage of a particular set of data storage pathways available for transferring data between a particular node and the data storage system decreases from a value that is greater than or equal to a pre-established warning threshold to a value that is lower than the pre-established warning threshold. (see column 11 lines 30-43 and column 22 lines 21-46).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made that the teachings of Beattie to include percentage and below a predefined threshold, flagging a content hole taught by Lim in order to determine relevance scores.

As per claims 6, 16, Beattie discloses a computed assisted method for detecting content holes, comprising:

(a) accessing (see column 24 lines 29-54 and Fig:7a-b) a content body organized into a plurality of accessing a content nodes ("i. e, "terms in query" see column 23 lines 38-65 and column 14 lines 29-65)wherein the content body includes a first concept node ("i. e, first term in a query" see column 23 lines 38-65 and column 14 lines 29-65 and column 23 lines 9-67") and (b) determining successful service interactions as a function of the concept nodes, and (c) determining documents as a function of the concept nodes (d) and (e) computing a content hole score for the first concept node as a function of at least one of (b), (c), and (d) (see column 6 lines 55-65) and selectively pre tagged before receiving a user query as part of a service interaction.(see column 24 lines28-54).

Beattie fail to explicitly teach a percentage and below a predefined threshold, flagging a content hole.

However Lim discloses a method for providing access to data storage pathways that connect a cluster of nodes to a data storage system, the method comprising the steps of: receiving, from a cluster framework operating on the cluster of nodes, instructions for controlling multiple sets of the data storage pathways that connect the cluster of nodes to the data storage system; determining, in response to the instructions, which of the multiple sets of data storage pathways are available for transferring data between the cluster of nodes and the data storage system in accordance with predetermined access conditions; providing, to the cluster framework, operation states identifying which of the multiple sets of storage pathways are available for transferring data between the cluster of nodes and the data storage system in accordance with the predetermined access conditions, the cluster of nodes accessing the data storage pathways based on the operation states; and issuing a warning signal to the cluster framework when a percentage of a particular set of data storage pathways available for transferring data between a particular node and the data storage system decreases from a value that is greater than or equal to a pre-established warning threshold to a value that is lower than the pre-established warning threshold. (see column 11 lines 30-43 and column 22 lines 21-46).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made that the teachings of Beattie to include percentage and below a predefined threshold, flagging a content hole taught by Lim in order to determine relevance scores.

As per claim 8, Beattie discloses in which each concept node represents a concept for the content body. ("i. e, "term in a query" see column 23 lines 38-65 and column 14 lines 29-65 and column 23 lines 9-67") .

As per claim 9, Beattie discloses in which the successful service interaction comprises a query from a user for which returned content matches that user's intent. (see column 6 lines 55-65 and column 23 lines 38-65 and column 14 lines 29-65 and column 23 lines 9-67") .

As per claim 13, Beattie discloses in which each concept node represents a concept for the content body. ("i. e, "term in a query" see column 23 lines 38-65 and column 14 lines 29-65 and column 23 lines 9-67") .

As per claim 14, Beattie discloses in which the successful service interaction comprises a query from a user for which returned content matches ("i. e, resultant dataset") that user's intent. (see column 6 lines 55-65 and column 23 lines 38-65 and column 14 lines 29-65 and column 23 lines 9-67") .

4. Claims 3-5, 7, 10-12, 15, are rejected under 35 U.S.C. 103(a) as being unpatentable over Beattie et al (Hereinafter Beattie U. S. Patent No 6,643, 640) in view of Lim U. S. Patent No 6, 526, 521 in view of Arai (U.S. Patent No 6, 714, 920).

As per claim 3, Beattie discloses a computer assisted method of charging for services, comprising:

determining successful service interactions in a typical information retrieval system. (see column 6 lines 55-65) and determining of successful service interactions for services provided in the typical and defined firs and second information retrieval system.(see column 23 lines 38-65 and column 14 lines 29-65 and column 23 lines 9-67").

Beattie fail to explicitly teach percentage and billing as a function of the difference between the percentage.

However Lim discloses a method for providing access to data storage pathways that connect a cluster of nodes to a data storage system, the method comprising the steps of: receiving, from a cluster framework operating on the cluster of nodes, instructions for controlling multiple sets of the data storage pathways that connect the cluster of nodes to the data storage system; determining, in response to the instructions, which of the multiple sets of data storage pathways are available for transferring data between the cluster of nodes and the data storage system in accordance with predetermined access conditions; providing, to the cluster framework, operation states identifying which of the multiple sets of storage pathways are available for transferring data between the cluster of nodes and the data storage system in accordance with the predetermined access conditions, the cluster of nodes accessing

the data storage pathways based on the operation states; and issuing a warning signal to the cluster framework when a percentage of a particular set of data storage pathways available for transferring data between a particular node and the data storage system decreases from a value that is greater than or equal to a pre-established warning threshold to a value that is lower than the pre-established warning threshold. (see column 11 lines 30-43 and column 22 lines 21-46).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made that the teachings of Beattie to include percentage and below a predefined threshold, flagging a content hole taught by Lim in order to determine relevance scores.

Lim fail to explicitly teach billing as a function of the difference between the percentage.

However Arai discloses a sub-information outputting means for reading out and outputting the sub-information selected by the sub-information selecting means from the sub-information memorizing means; a main information outputting means for reading out and outputting the main information retrieved by the main information retrieving means from the main information memorizing means; and a billing means which carries out the billing of the main information outputted by the main information outputting process and reduces the amount of money to be billed when an output by the sub-information outputting process is executed with respect to the sub-information on the main information which is an object of the billing.(Note abstract and see column 2 lines 34-57 and column 21 lines 38-57).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Beattie and Lim to include teach billing as a function of the difference between the percentage taught by Arai in order to provide an accurate bill for services provided.

As per claim 4, Beattie discloses, the computer assisted method wherein determining a percentage of successful service interactions for services provided in the defined information retrieval system includes:

accessing a content body organized into a plurality of concept nodes ("i. e, "terms in a query" see column 23 lines 38-65 and column 14 lines 29-65") wherein the content body

includes a first concept node ("i. e, "first term in a query" see column 23 lines 38-65 and column 14 lines 29-65 and column 23 lines 9-67") , determining a of successful service interactions as a function of each concept node and a typical information retrieval system and services provided in the defined information retrieval system. (see column 6 lines 55-65) and selectively pre tagged before receiving a user query as part of a service interaction.(see column 24 lines28-54).

Beattie fail to explicitly teach billing as a function of the difference between the percentage.

However Lim discloses a method for providing access to data storage pathways that connect a cluster of nodes to a data storage system, the method comprising the steps of: receiving, from a cluster framework operating on the cluster of nodes, instructions for controlling multiple sets of the data storage pathways that connect the cluster of nodes to the data storage system; determining, in response to the instructions, which of the multiple sets of data storage pathways are available for transferring data between the cluster of nodes and the data storage system in accordance with predetermined access conditions; providing, to the cluster framework, operation states identifying which of the multiple sets of storage pathways are available for transferring data between the cluster of nodes and the data storage system in accordance with the predetermined access conditions, the cluster of nodes accessing the data storage pathways based on the operation states; and issuing a warning signal to the cluster framework when a percentage of a particular set of data storage pathways available for transferring data between a particular node and the data storage system decreases from a value that is greater than or equal to a pre-established warning threshold to a value that is lower than the pre-established warning threshold. (see column 11 lines 30-43 and column 22 lines 21-46).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made that the teachings of Beattie to include percentage and below a predefined threshold, flagging a content hole taught by Lim in order to determine relevance scores.

Lim fail to explicitly teach billing as a function of the difference.

However Arai discloses a sub-information outputting means for reading out and outputting the sub-information selected by the sub-information selecting means from the sub-information memorizing means; a main information outputting means for reading out and outputting the main information retrieved by the main information retrieving means from the main information memorizing means; and a billing means which carries out the billing of the main information outputted by the main information outputting process and reduces the amount of money to be billed when an output by the sub-information outputting process is executed with respect to the sub-information on the main information which is an object of the billing.(Note abstract and see column 2 lines 34-57 and column 21 lines 38-57).
Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Beattie Lim to include billing as a function of the difference between the percentage taught by Arai in order to provide an accurate bill for services provided.

As per claim 5, Beattie discloses, a computer readable medium having instructions, when executed in a computer, charges for services:
accessing a content body organized (see column 24 lines 29-54 and fig: 7a-b) into a plurality of concept nodes. ("i. e, "sever nodes" see column 4 lines 40-65) wherein the content body includes a first concept node ("i. e, "terms in a query" see column 23 lines 38-65 and column 14 lines 29-65") determining successful service interactions in a first information retrieval system. and successful service interactions for services provided in the defined information retrieval system includes weighting successful interactions as a function of concept node (see column 6 lines 55-65) and selectively pre tagged before receiving a user query as part of a service interaction.(see column 24 lines28-54).

Beattie fails to teach percentage and billing as a function of the difference between the percentage of successful service interactions in a typical information retrieval system and the percentage.

However Lim discloses a method for providing access to data storage pathways that connect a cluster of nodes to a data storage system, the method comprising the steps of: receiving, from a cluster framework operating on the cluster of nodes,

instructions for controlling multiple sets of the data storage pathways that connect the cluster of nodes to the data storage system; determining, in response to the instructions, which of the multiple sets of data storage pathways are available for transferring data between the cluster of nodes and the data storage system in accordance with predetermined access conditions; providing, to the cluster framework, operation states identifying which of the multiple sets of storage pathways are available for transferring data between the cluster of nodes and the data storage system in accordance with the predetermined access conditions, the cluster of nodes accessing the data storage pathways based on the operation states; and issuing a warning signal to the cluster framework when a percentage of a particular set of data storage pathways available for transferring data between a particular node and the data storage system decreases from a value that is greater than or equal to a pre-established warning threshold to a value that is lower than the pre-established warning threshold. (see column 11 lines 30-43 and column 22 lines 21-46).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made that the teachings of Beattie to include percentage and below a predefined threshold, flagging a content hole taught by Lim in order to determine relevance scores.

Lim fail to explicitly teach billing as a function.

However Arai discloses a sub-information outputting means for reading out and outputting the sub-information selected by the sub-information selecting means from the sub-information memorizing means; a main information outputting means for reading out and outputting the main information retrieved by the main information retrieving means from the main information memorizing means; and a billing means which carries out the billing of the main information outputted by the main information outputting process and reduces the amount of money to be billed when an output by the sub-information outputting process is executed with respect to the sub-information on the main information which is an object of the billing.(Note abstract and see column 2 lines 34-57 and column 21 lines 38-57).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Beattle and Lim to include explicitly teach billing as a function taught by Arai in order to provide an accurate bill for services provided.

As per claim 7, Beattie discloses a computer assisted method of charging for services, comprising:
determining a number of successful service interactions an information retrieval system over a period of time. (see column 6 lines 55-65).

Beattie and Lim fail to explicitly teach billing as a function of the number of successful service interactions in a typical information retrieval system over a period of time.

However Arai discloses a sub-information outputting means for reading out and outputting the sub-information selected by the sub-information selecting means from the sub-information memorizing means; a main information outputting means for reading out and outputting the main information retrieved by the main information retrieving means from the main information memorizing means; and a billing means which carries out the billing of the main information outputted by the main information outputting process and reduces the amount of money to be billed when an output by the sub-information outputting process is executed with respect to the sub-information on the main information which is an object of the billing.(Note abstract and see column 2 lines 34-57 and column 21 lines 38-57).
Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Beattie and Lim to include billing as a function of the number of successful service interactions in a typical information retrieval system over a period of time taught by Arai in order to provide an accurate bill for services provided.

As per claim 10, Beattie discloses in which the successful service interaction comprises a query from a user for which returned content matches that user's intent. (see column 6 lines 55-65 and column 23 lines 38-65 and column 14 lines 29-65 and column 23 lines 9-67") .

As per claim 11, Beattie discloses 4, in which each concept node represents a concept for the content body. ("i. e, "term in a query" see column 23 lines 38-65 and column 14 lines 29-65 and column 23 lines 9-67") .

As per claim 12, Beattie discloses 4, in which the successful service interaction comprises a query from a user for which returned content matches that user's intent. (see column 6 lines 55-65 and column 23 lines 38-65 and column 14 lines 29-65 and column 23 lines 9-67") .

As per claim 15, Beattie discloses which the successful service interaction comprises a query from a user for which returned content matches that user's intent. (see column 6 lines 55-65 and column 23 lines 38-65 and column 14 lines 29-65 and column 23 lines 9-67") .

Conclusion

RESPONSE TO ARGUMENTS

5. Applicant's arguments files on 10/23/06 have been fully considered but they are not persuasive for the following reasons.

6. In response to Applicant's arguments that Beattie, Lim, and Arai fail to teach or suggest" accessing a content a content body organized into a plurality of concept nodes wherein the content body includes a first concept node and determining successful service interactions as a function of concept node, successful service interactions at the first concept node and selectively pre tagged before receiving a user query as part of a service interaction and percentage and below a predefined threshold, flagging a content hole" the examiner disagrees with Applicant' because the limitations are addressed as stated and billing as a function of the number of successful service interactions in a typical information retrieval system over a period of time.

Beattie discloses accessing a content a content body see column 24 lines 29-54 and fig: 7a-b) organized into a plurality of concept nodes "i. e, "terms in a query" see column 23 lines 38-65 and column 14 lines 29-65") wherein the content body includes a first concept node "i. e, "first term in a query" see column 23 lines 38-65 and column 14 lines 29-65 and column 23 lines 9-67") and determining successful service interactions as a function of concept node, successful service interactions at the first concept node (see

column 6 lines 55-65) and selectively pre tagged before receiving a user query as part of a service interaction. see column 24 lines28-54.

Lim discloses a method for providing access to data storage pathways that connect a cluster of nodes to a data storage system, the method comprising the steps of: receiving, from a cluster framework operating on the cluster of nodes, instructions for controlling multiple sets of the data storage pathways that connect the cluster of nodes to the data storage system; determining, in response to the instructions, which of the multiple sets of data storage pathways are available for transferring data between the cluster of nodes and the data storage system in accordance with predetermined access conditions; providing, to the cluster framework, operation states identifying which of the multiple sets of storage pathways are available for transferring data between the cluster of nodes and the data storage system in accordance with the predetermined access conditions, the cluster of nodes accessing the data storage pathways based on the operation states; and issuing a warning signal to the cluster framework when a percentage of a particular set of data storage pathways available for transferring data between a particular node and the data storage system decreases from a value that is greater than or equal to a pre-established warning threshold to a value that is lower than the pre-established warning threshold. (see column 11 lines 30-43 and column 22 lines 21-46).

However Arai discloses a sub-information outputting means for reading out and outputting the sub-information selected by the sub-information selecting means from the sub-information memorizing means; a main information outputting means for reading out and outputting the main information retrieved by the main information retrieving means from the main information memorizing means; and a billing means which carries out the billing of the main information outputted by the main information outputting process and reduces the amount of money to be billed when an output by the sub-information outputting process is executed with respect to the sub-information on the main information which is an object of the billing .Note abstract and see column 2 lines 34-57 and column 21 lines 38-57.

Therefore it is obviously clear that Applicant' claimed limitations are addressed within the teachings of Beattie, Lim, and Arai .

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

7. With respect to Applicant's second argument, Examiner respectfully submits that

obviousness is not determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See In re Oetiker, 977F. 2d 1443, 1445,24 USPQ2d 1443, 1444 (Fed. Cir. 1992); In re Hedges, 783F.2d 1038, 1039, 228 USPQ* 685, 686 (Fed. Cir.1992); In re Piaseckii, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir.1984); In re Rinehart, 531 F.2d 1048, 1052, 189 USPQ 143, 147 (CCPA 1976). Using this standard, the Examiner respectfully submits that he has at least satisfied the burden of presenting a prima facie case of obviousness, since he has presented evidence of corresponding claim elements in the prior art and has expressly articulated the combinations and the motivations for combinations that fairly suggest Applicant's claimed invention. Note, for example, in the instant case, the Examiner respectfully notes that each and every motivation to combine the applied references are accompanied by select portions of the respective reference(s) which specially support that particular motivation and /or an explanation based on the logic and scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a holding of obviousness. As such, it is not seen that the Examiner's combination of references is unsupported by the applied prior art of record. Rather, it is respectfully submitted that explanation based on the logic and scientific reasoning of one of ordinarily skilled in the art at the time of the invention that support a holding of obviousness has been adequately provided by the motivations and reasons indicated by the Examiner, Ex pane Levengood, 28 USPQ2d 1300(Bd. Pat. App &.,4/293 Therefore the combination of reference is proper and the rejection is maintained.

8. Applicant also maintains that Beattie and Lim cannot be combined, the Examiner recognizes that obviousness can only be established by combining or modifying the

teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071,5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The rationale to modify or combine the prior art does not have to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law. In re Fine, 837 F.2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). See also In re Eli Lilli & Co., 902 F.2d 943, 14 USPQ2d 1741 (Fed. Cir. 1990) (discussion of reliance on legal precedent); In re Nilssen, 851 F.2d 1401, 7USPQ2d 1500 (Fed. Cir. 1988) (references do not have to explicitly suggest combining teachings); Ex parte Clapp, 227 USPQ 972 (Bd. Pat. App & Inter); and Es parte

Levengood, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993) (reliance on logic and sound scientific reasoning).

Also in reference to Ex parte Levengood, 28 USPQ2d, 1301, the court stated that "Obviousness is a legal conclusion, the determination of which is a question of patent law. Motivation for combining the teachings of the various references need not to explicitly found in the reference themselves, In re Keller, 642 F.2d 413, 208USPQ 871 (CCPA 1981). Indeed, the Examiner may provide an explanation based on logic and sound scientific reasoning that will support a holding of obviousness. In re Soli, 317 F.2d 941 137 USPQ 797 (CCPA 1963)."

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are (571-272-6795) for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

January 16, 2007

FRANTZY POINVIL
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